



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
(Implements RCW 34.05.360)

**Agency:** Employment Security Department

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

☒ 31 days after filing.

☐ Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**  
☐ Yes ☒ No If Yes, explain:

**Purpose:** The rule provides clarity concerning the priority of payments, how payments will be handled when a claimant is eligible for an unemployment claim but is paid extended or emergency benefits in error, and how the amount of extended benefits will be calculated when an individual's weekly benefit amount is temporarily increased.

**Citation of existing rules affected by this order:**

Repealed:

Amended:

Suspended:

**Statutory authority for adoption:** RCW 50.12.010, 50.12.040, 50.20.010

**Other authority :**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 09-20-098 on October 7, 2009 (date).

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

**Date adopted:**

November 16, 2009

**NAME (TYPE OR PRINT)**

Paul Trause

**SIGNATURE**

Paul Trause

**TITLE**

Deputy Commissioner

**CODE REVISER USE ONLY**

CODE REVISER USE ONLY  
SUBJECT: \_\_\_\_\_

9:58  
09-24-011

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	<u>1</u>	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	<u>1</u>	Amended	_____	Repealed	_____

## NEW SECTION

**WAC 192-240-060 What is the priority of payments?** Any emergency unemployment compensation or any similar federal compensation may be paid before the state extended benefits authorized under Chapter 50.22 RCW at the discretion of the commissioner.

## NEW SECTION

**WAC 192-240-070 What happens if I am paid emergency or extended benefits when I am eligible for a new unemployment claim?** If you are paid emergency unemployment compensation, state extended benefits, or any similar state or federal extension, and it is later discovered that you were eligible for a regular unemployment claim during all or part of the period in which you received such benefits, the regular unemployment claim takes priority. The balance on your new unemployment claim will be adjusted for any week(s) at issue, meaning those weeks in which you should have received regular unemployment benefits, subject to the following:

(1) Except as provided in subsection 4 of this section, you may not be paid twice for the same week

(2) If your new weekly benefit amount is equal to the amount you were paid for the weeks at issue, the amount you were paid in emergency unemployment compensation or extended benefits will be deducted from the maximum benefits payable on your new claim.

Example: Your previous weekly benefit amount was five hundred dollars. You received emergency unemployment compensation for eight weeks at this amount when it was discovered you were eligible for a new claim in the amount of five hundred dollars. The five hundred dollars paid for eight weeks will be deducted from the maximum benefits payable on your new claim.

(3) If your new weekly benefit amount is lower than the amount you were paid for the weeks at issue, the amount you were paid in emergency unemployment compensation or extended benefits that is equivalent to the weekly benefit amount on your new claim will be deducted from the maximum benefits payable on your new claim. The difference between the amounts paid in emergency unemployment compensation or extended benefits for the week(s) at issue and the weekly benefit amount on your new claim will be waived as provided in RCW 50.20.190.

Example: Your previous weekly benefit amount was five hundred dollars. You received emergency unemployment

compensation for eight weeks at this amount when it was discovered you were eligible for a new claim in the amount of three hundred-fifty dollars. The three hundred-fifty dollars for eight weeks will be deducted from the maximum benefits payable on your new claim. The one hundred-fifty dollar difference between your previous weekly benefit amount and your new weekly benefit amount will be waived.

(4) If your new weekly benefit amount is higher than the amount you were paid for the week(s) at issue, the amount you were paid in emergency unemployment compensation or extended benefits will be supplemented so that you receive your new weekly benefit amount for the weeks at issue and the total deducted from the maximum benefits payable on your new claim.

For example: Your previous weekly benefit amount was three hundred-fifty dollars. You received emergency unemployment compensation for eight weeks at this amount when it was discovered you were eligible for a new claim in the amount of five hundred dollars. You will be paid an additional one hundred-fifty dollars for each of the eight weeks at issue and the total deducted from the maximum benefits payable on your new claim.

#### **NEW SECTION**

##### **WAC 192-240-080 How much will I receive in extended benefits if my regular weekly benefit amount is increased?**

(1)(a) If your weekly benefit amount for regular unemployment benefits is increased during your benefit year, the maximum amount of extended benefits payable will be the lesser of fifty percent of the total regular unemployment compensation paid to you for the benefit year or thirteen times the average weekly benefit amount paid during your benefit year.

Example: You receive regular unemployment benefits for twenty weeks at \$200 and \$245 for the remaining six weeks. The maximum benefits payable on your claim is \$5,470. Your weekly benefit amount for extended benefits will be \$245. The maximum extended benefits payable will be \$2,735 which is the lesser of fifty percent of \$5,470 or thirteen times \$222.5 (\$200 + \$245 divided by 2, the average of both weekly benefit amounts, or \$2,892).

(b) When the state is in a high unemployment period as defined in RCW 50.22.010(3), the maximum amount of extended benefits payable will be the lesser of eighty percent of the total regular unemployment compensation paid to you for the benefit year or twenty times the average weekly benefit amount paid during your benefit year.

(2) For purposes of this section, "average" means the average of the two weekly benefit amounts paid during your benefit year.